HON'BLE SRI JUSTICE BILAL NAZKI
AND
HON'BLE SRI JUSTICE S. ANANDA REDDY

WRIT PETITION Nos. 1554 & 1555 OF 2003

Date : 23-08-2007

Between:

Mir Abid Ali & another.

.....Appellants.

and

M/s.Remax Constructions, Hyderabad,
rep. by its owner Mohd. Noor Ul Haq & others.

.....Respondents

HON'BLE SRI JUSTICE BILAL NAZKI
AND
HON'BLE SRI JUSTICE S. ANANDA REDDY

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COMMON ORDER : (Per Hon'ble Sri Bilal Nazki, J)

Two land grabbing cases being L.G.C.Nos. 63 and 64 of 2000 were filed before the Land Grabbing Court by two brothers. Respondents were same in both the cases.

Briefly, it was the case of the petitioners in those land grabbing cases that they were owners of land falling in Old Survey Nos.23 and 20/4, which corresponded to Town Survey Nos.20/1/A and 20/2. They claimed title over the property by virtue of a Hiba of one Raheemunnissa Begum, who was the original owner of the property. The Hiba was made in 1963 and somewhere in 1995, respondents grabbed and took over the possession of the land. The respondents, in their defence, did not dispute the ownership of the petitioners over the lands under Old Survey Nos.23 and 20/4, but

they claimed they were in possession of the land, which did not fall under these survey numbers. The land in their possession, according to them, fell under Old Survey No.22, which corresponded to T.S.No.20/3. The Land Grabbing Court, in our view, should have not entertained the dispute after the respondents had putforth their defence that they were not in possession of the land claimed by the petitioners, because, in such a situation, the dispute would have been the identification of the land and it could not be termed a land grabbing matter and would be a genuine and bonafide case for litigation by both the parties. The petitioners also moved an application before the Court, requesting for appointment of a Surveyor/Commissioner to locate the land under Old Survey Nos.23 and 20/4. This application was rejected by the Court on the ground that the petitioners were not able to establish their title over Survey Nos.23 and 20/4. In our view, this approach was not correct, because, the title of the petitioners had not been challenged by the respondents. Respondents, at no stage, claimed title over Survey Nos.23 and 20/4. They claimed the title independently not from Raheemunnissa Begum, but by somebody else in Old Survey No.22, which corresponded to T.S.No.20/3. Unnecessarily the Court went into the question of examining the title of the petitioners in Old Survey Nos.23 and 20/4 and discussed the evidence, which was produced by the petitioner in order to establish

the title. We do not want to go into that evidence, because, that is again going to prejudice the petitioners if they choose to file a regular suit.

In this view of the matter, we set aside the impugned orders of the Land Grabbing Court and leave it open to the petitioners to seek appropriate remedies from a Civil Court. If such a suit is filed, the Court shall not be influenced by any observations made by the Land Grabbing Court with regard to the title of the petitioners over the land under Old Survey Nos.23 and 20/4. In case any suit is filed, both parties shall be at liberty to raise any contentions that may be available to them in law. The interim order granted by this Court on 21.02.2003 shall stand withdrawn.

Writ petitions are accordingly allowed.

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BILAL NAZKI, J

23rd August 2007

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S. ANANDA REDDY, J

ajr